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9 **BEFORE THE**
10 **BOARD OF REGISTERED NURSING**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. **2010 - 286**

14 **KIMBERLEY ANN BARNETT, aka**
15 **KIMBERLEY ANN EHLERS BARNETT**
1721 Mark Mead Lane
Modesto, CA 95356

A C C U S A T I O N

16 Registered Nurse License No. 411129

17 Respondent.
18

19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
22 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
23 of Consumer Affairs.

24 **License History**

25 2. On or about March 31, 1987, the Board of Registered Nursing issued Registered
26 Nurse License Number 411129 to Kimberley Ann Barnett, also known as Kimberley Ann Ehlers
27 Barnett ("Respondent"). The license was in full force and effect at all times relevant to the
28 charges brought herein and will expire on April 30, 2011, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing ("Board"), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code ("Code"), unless otherwise indicated.

4. Code section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

6. Code section 118, subdivision (b), provides that the suspension, expiration, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or

7. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following: . . .

8. Code section 2762 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

...

(c) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a) of this section.

COST RECOVERY

9. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

1 10. DRUGS

2 "Lortab" is a combination drug containing Hydrocodone Bitartrate and Acetaminophen and
3 is a Schedule III controlled substance as designated by Health and Safety Code section 11056,
4 subdivision (e)(4).

5 "Norco," a combination drug containing Hydrocodone Bitartrate and Acetaminophen, is a
6 Schedule III controlled substance as designated by Health and Safety Code section 11056,
7 subdivision (e)(4).

8 **FIRST CAUSE FOR DISCIPLINE**

9 **(Incorrect and/or Inconsistent Entries in Hospital and/or Patient Records)**

10 11. Respondent is subject to disciplinary action under Code section 2761, subdivision (a),
11 on the grounds of unprofessional conduct, as defined in Code section 2762, subdivision (e), in
12 that while on duty as a registered nurse in the Same Day Surgery Unit at Memorial Medical
13 Center in Modesto, California, Respondent falsified or made grossly incorrect or grossly
14 inconsistent entries in hospital and/or patient records, as follows:

15 Patient A

16 a. On October 25, 2005, at 10:21 hours, Respondent withdrew 2 tablets of 7.5 mg
17 Lortab, a controlled substance, from the hospital's Pyxis¹ machine for this patient when there
18 were no physicians' orders therefor, and 16 minutes after the patient was discharged from the
19 surgery unit at 1005 hours. Furthermore, Respondent failed to chart the administration of the
20 Lortab in the patient's Nursing Record Pre-Op Assessment and Care sheet and has failed to
21 account for the wastage or disposition of the two Lortab tablets in any patient record or other
22 hospital record.

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27 ¹ Pyxis is a trade name for the automated single-unit doses medication dispensing system
28 that records information, including the patient name, physician orders, date and time the
 medication was withdrawn, and the name of the individual who withdrew the drug.

1 Patient B

2 b. On October 20, 2005, at 0648 and 1051 hours, Respondent withdrew two tablets each
3 time of 7.5 mg. Lortab, a controlled substance, from the hospital's Pyxis machine for this patient.
4 At 1045 hours, Respondent entered in the patient's Nursing Record Pre-Op Assessment and Care
5 sheet the administration of two Lortab tablets. However, Respondent has failed to account for the
6 wastage or disposition of the remaining two Lortab tablets in any patient record or other hospital
7 record.

8 Patient C

9 c. On October 28, 2005, at 1536 hours, Respondent withdrew two tablets of 7.5 mg.
10 Lortab, a controlled substance, from the hospital's Pyxis machine for this patient. Respondent
11 failed to chart the administration of the Lortab tablets in the patient's Nursing Record Pre-Op
12 Assessment and Care sheet and has failed to account for the wastage or disposition of the two
13 Lortab tablets in any patient record or other hospital record.

14 Patient D

15 d. On October 25, 2005, at 1445 hours, Respondent withdrew two tablets of 7.5 mg.
16 Lortab, a controlled substance, from the hospital's Pyxis machine for this patient five minutes
17 after the patient was discharged. Furthermore, Respondent failed to chart the administration of
18 the Lortab tablets in the patient's Nursing Record Pre-Op Assessment and Care sheet and has
19 failed to account for the wastage or disposition of the two Lortab tablets in any patient record or
20 other hospital record.

21 Patient E

22 e. On October 25, 2005, at 1638 hours, Respondent withdrew two tablets of 7.5 mg.
23 Lortab, a controlled substance, from the hospital's Pyxis machine for this patient. Respondent
24 failed to chart the administration of the Lortab tablets in the patient's Nursing Record Pre-Op
25 Assessment and Care sheet and has failed to account for the wastage or disposition of the two
26 Lortab tablets in any patient record or other hospital record.

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1 Patient F

2 f. On October 24, 2005, at 1629 hours, Respondent withdrew two tablets of 7.5 mg.
3 Lortab, a controlled substance, from the hospital's Pyxis machine for this patient. Respondent
4 failed to chart the administration of the Lortab tablets in the patient's Nursing Record Pre-Op
5 Assessment and Care sheet and has failed to account for the wastage or disposition of the two
6 Lortab tablets in any patient record or other hospital record.

7 Patient G

8 g. On October 27, 2005, at 1127 hours, Respondent withdrew two tablets of 7.5 mg.
9 Lortab, a controlled substance, from the hospital's Pyxis machine for this patient. Respondent
10 failed to chart the administration of the Lortab tablets in the patient's Nursing Record Pre-Op
11 Assessment and Care sheet and has failed to account for the wastage or disposition of the two
12 Lortab tablets in any patient record or other hospital record.

13 Patient H

14 h. On October 28, 2005, at 1046 hours, Respondent withdrew two tablets of 7.5 mg.
15 Lortab, a controlled substance, from the hospital's Pyxis machine for this patient. Respondent
16 failed to chart the administration of the Lortab tablets in the patient's Nursing Record Pre-Op
17 Assessment and Care sheet and has failed to account for the wastage or disposition of the two
18 Lortab tablets in any patient record or other hospital record.

19 Patient I

20 i. On October 18, 2005, at 1448 hours, Respondent withdrew two tablets of 7.5 mg.
21 Lortab, a controlled substance, from the hospital's Pyxis machine for this patient. Respondent
22 failed to chart the administration of the Lortab tablets in the patient's Nursing Record Pre-Op
23 Assessment and Care sheet and has failed to account for the wastage or disposition of the two
24 Lortab tablets in any patient record or other hospital record.

25 Patient J

26 j. On October 21, 2005, at 1729 hours, Respondent withdrew two tablets of 10/325 mg.
27 Norco, a controlled substance, from the hospital's Pyxis machine for this patient while an in-
28 patient in the surgery unit. Respondent failed to chart the administration of two Norco tablets in

1 the patient's Nursing Record Pre-Op Assessment and Care and has failed to account for the
2 wastage or disposition of the two Norco tablets in any patient record or other hospital record.

3 Patient K

4 k. On October 17, 2005, at 1550 hours, Respondent withdrew two tablets of 7.5 mg.
5 Lortab, a controlled substance, from the hospital's Pyxis machine for this patient. At 1615 hours,
6 Respondent charted the administration of one Lortab tablet in the patient's Nursing Record Pre-
7 Op Assessment and Care sheet. However, Respondent has failed to account for the wastage or
8 disposition of the remaining one Lortab tablet in any patient record or other hospital record.

9 Patient L

10 l. On October 17, 2005, at 1523 hours, Respondent withdrew two tablets of 7.5 mg.
11 Lortab, a controlled substance, from the hospital's Pyxis machine for this patient. At 1600 hours,
12 Respondent charted the administration of the Lortab tablets in the patient's Nursing Record Pre-
13 Op Assessment and Care sheet, but failed to document the dose or route of the drug.

14 Patient M

15 m. On October 14, 2005, at 1552 hours, Respondent withdrew two tablets of 7.5 mg.
16 Lortab, a controlled substance, from the hospital's Pyxis machine for this patient. Respondent
17 failed to chart the administration of the Lortab tablets in the patient's Nursing Record Pre-Op
18 Assessment and Care sheet and has failed to account for the wastage or disposition of the two
19 Lortab tablets in any patient record or other hospital record.

20 Patient N.

21 n. On October 20, 2005, at 1229 hours, Respondent withdrew two tablets of 7.5 mg.
22 Lortab, a controlled substance, from the hospital's Pyxis machine for this patient. Respondent
23 failed to chart the administration of the Lortab tablets in the patient's Nursing Record Pre-Op
24 Assessment and Care sheet and has failed to account for the wastage or disposition of the two
25 Lortab tablets in any patient record or other hospital record. Also, at 1235 hours, Respondent
26 charted the administration of Vicodin to this patient but failed to chart the dose and strength of the
27 drug.

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1 Patient O

2 o. On October 25, 2005, at 1441 hours, Respondent withdrew two tablets of 7.5 mg.
3 Lortab, a controlled substance, from the hospital's Pyxis machine for this patient. Respondent
4 failed to chart the administration of the Lortab tablets in the patient's Nursing Record Pre-Op
5 Assessment and Care sheet and has failed to account for the wastage or disposition of the two
6 Lortab tablets in any patient record or other hospital record.

7 PRAYER

8 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
9 and that following the hearing, the Board of Registered Nursing issue a decision:


10 1. Revoking or suspending Registered Nurse License Number 411129 issued to
11 Kimberley Ann Barnett, also known as Kimberley Ann Ehlers Barnett;

12 2. Ordering Kimberley Ann Barnett, also known as Kimberley Ann Ehlers Barnett to
13 pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to
14 Code section 125.3; and,

15 3. Taking such other and further action as deemed necessary and proper.

16
17 DATED: _____

12/7/09


LOUISE R. BAILEY, M.ED., R.N.
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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